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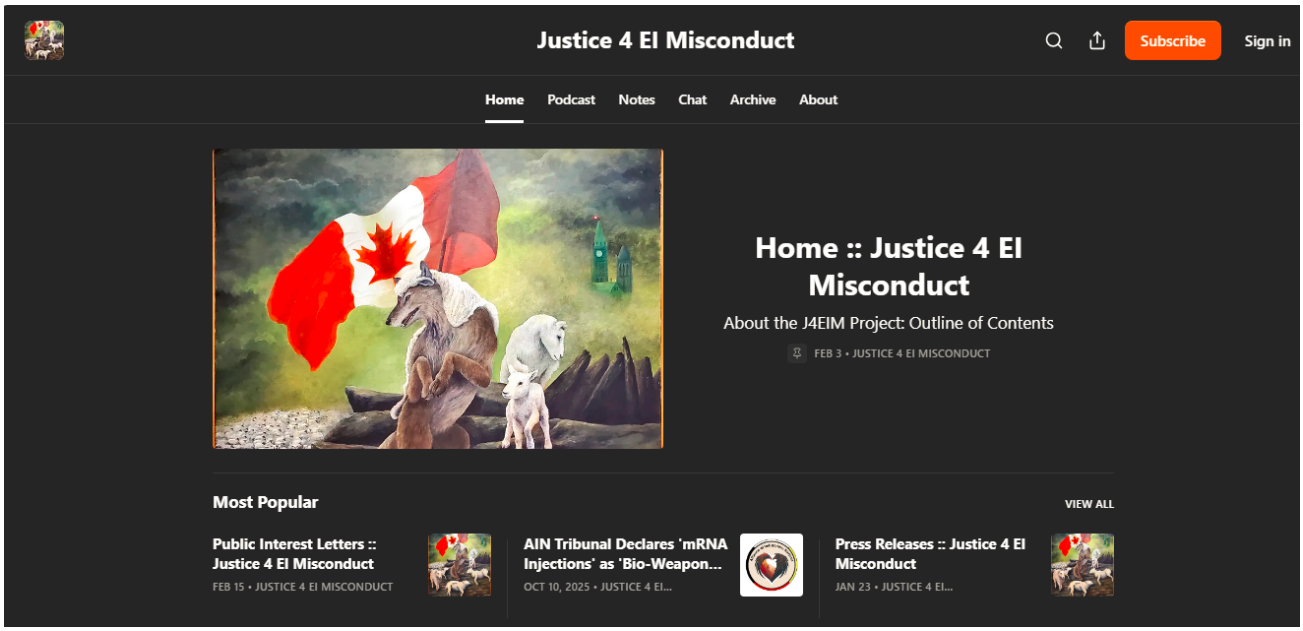
Justice For EI Misconduct, Part 1: Court Of Appeal Dismisses Case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The Federal Court of Appeal dismissed an Application for Judicial Review on Wednesday. This challenged the decision of the Social Security Tribunal (S.S.T.) to refuse a man employment insurance (E.I.) for not taking the injections in late 2021.

While the issue of people *suing* or *grieving* after losing their jobs has been covered here extensively, E.I., has not been addressed nearly enough.

Until recently, it was normal that a person would be considered “constructively dismissed” if the employer made significant changes, or imposed new conditions. It would be seen as a

repudiation of the employment contract. He or she would be able to walk away.

But that effectively ended in 2021. Suddenly, refusing experimental shots was to be viewed as “misconduct” and “insubordination”. The S.S.T. would treat it as such, instead of evaluating cases individually. They realized that the fund could not afford tens (or hundreds) of thousands of people walking away from their jobs, and getting benefits.

Appellate Court Saw Nothing Wrong With S.S.T.’s Reasons

In dismissing the case, the Court of Appeal agreed with the S.S.T. in several areas.

A: Misconduct for purposes of the EI Act does not imply that the conduct in question was the result of wrongful intent; it is ***sufficient that the misconduct be conscious, deliberate or intentional*** (paragraph 20 of the Decision).

B: The General Division’s role was to assess ***(i) whether Mr. Arnold was guilty of misconduct, and (ii) whether that misconduct led to his dismissal*** (paragraph 21 of the Decision).

C: It was ***not*** for the General Division to ***focus on the conduct of the employer or to consider whether the Vaccination Policy was reasonable*** or whether the imposition of the Vaccination Policy ***violated the employment law relationship*** because those concerns fall outside of EI law; the General Division had to focus on Mr. Arnold’s conduct (paragraphs 34, 36, 37 of the Decision).

D: Any question of accommodation, violation by Purolator of the law or the ***collective bargaining agreement*** in imposing the Vaccination Policy, or any violation of Mr. Arnold’s ***human or constitutional rights***, is a ***question for another forum*** (paragraphs 38 and 40 of the Decision)

In short, the S.S.T. has no jurisdiction to look at: (a) intent; (b) the employer’s conduct; (c) whether the changes violated the contract; (d) violation of collective bargaining agreements; (e) human rights; or (f) constitutional rights. Any of these *should* have been sufficient to at least consider whether or not there was justification.

How Does This Case Differ From Other E.I. Ones?

This case went into significantly more detail than similar ones, and raises real questions about fairness, impartiality, and possible corruption. Other former workers just wanted to be compensated.

(a) First, the Applicant alleges that the rules had been altered specifically to make it "misconduct" to refuse an employer's demand for employee vaccination.

(b) Second, that the decisions had prepared ahead of time with various "templates" depending on which grounds workers cited in refusing the shots.

(c) Third, that it was a "business decision" to mass refuse applications, since the E.I. fund was legally required to be revenue neutral. It simply did not have the funds to pay out anywhere near the full amount of employees.

(d) Fourth, the Applicant went into some of the data about the rates of applying, and getting approved for E.I. in 2021/2022, compared to other years in the same time period.

More to follow in subsequent articles.

Timeline Of Proceedings With Federal Court Of Appeal

There were significant delays in 2024, due largely to the volume to material that had to be prepared, and filed. Being self-represented was another setback.

February 8th, 2024: Notice of Application is filed with the Federal Court of Appeal.

February 19th, 2024: Attorney General's office files a Notice of Appearance.

March 6th, 2024: Attorney General consented to an extension of time to bring the Application Record. The quantity of material had led to delays.

April 16th, 2024: Justice Monaghan Matter gave an order that an outstanding Affidavit be

completed by April 23rd, 2024.

June 24th, 2024: A further extension was granted, to July 25th, but with the instructions that no more extensions would be, absent exceptional circumstances.

May 5th, 2025: The Court rejects some of the Applicant's papers on procedural grounds.

June 6th, 2025: Applicant send in the Book of Authorities (case law), along with the Record (evidence), finally completed.

January 20th, 2026: Hearing is finally scheduled for February.

February 18th, 2026: Applicant sent a letter to the Court asking that his nephew be allowed to join him as a support person. The request was granted.

Feburary 25th, 2026: Hearing takes place at Federal Court of Appeal.

Feburary 25th, 2026: Without even hearing the Attorney General's arguments, Justices Locke, LeBlanc and Walker dismiss the Application. It's done without costs.

While the proceedings took a lot longer than they should have, it was eventually heard. However, the Court apparently was unconcerned with what was being presented.

******Note: There's a lot more going on than simply 1 person demanding E.I. after being forced out of work. It's much bigger, and will take several articles to properly cover.***

Justice For EI Misconduct Website:
(1) https://blog.justice4eimisconduct.com/

COURT DOCUMENTS:
(1) https://www.canlii.org/en/ca/fca/doc/2026/2026fca41/2026fca41.html

FEDERAL COURTS:
(1) https://www.fct-cf.ca/en/court-files-and-decisions/court-files#cont

RUMBLE:
(1) https://rumble.com/v74raiu-s4t-friday-zoom-jan-23rd-ei-misconduct-case-update.html

(2) https://rumble.com/v76dqbc-s4t-friday-zoom-feb-27-ei-misconduct-ruling.html

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